

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.<sup>1</sup>

PROMESA  
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

EMPLOYEES RETIREMENT SYSTEM OF THE  
GOVERNMENT OF THE COMMONWEALTH OF  
PUERTO RICO,

Debtor.

PROMESA  
Title III

No. 17 BK 3566-LTS

**DECLARATION OF MADHU POCHA, ESQ. IN OPPOSITION TO MOTION OF  
CERTAIN CREDITORS OF THE EMPLOYEES RETIREMENT SYSTEM OF THE  
GOVERNMENT OF PUERTO RICO TO COMPEL PRODUCTION OF DOCUMENTS  
IN PRIVILEGE LOG CATEGORIES 1, 5 TO 7 [DELIBERATIVE PROCESS  
PRIVILEGE AND EXECUTIVE PRIVILEGE]**

<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283- LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

I, Madhu Pocha, state and declare as follows:

1. I am an attorney at the law firm of O'Melveny & Myers LLP, in its office located at 1999 Avenue of the Stars, 8th Floor, Los Angeles, CA 90067. I am a member in good standing of the Bar of California and admitted *pro hac vice* in this proceeding. I submit this declaration in opposition to Movants' Motion to Compel Production of Documents in Privilege Log Categories 1, 5 to 7.<sup>2</sup> Unless otherwise specified, I have personal knowledge of the matters stated herein.

**Movants' Privilege Logs**

2. On April 10, 2019, Movants served on Respondents eight privilege logs, true and correct copies of which are attached as Exhibits A through H.

3. The eight logs include approximately 60 entries that are missing senders or recipients, 75 entries with non-lawyer third parties who are not identified, 45 entries with communications with other bondholders without a claim of common interest, and 150 entries with communications to or from distribution lists for which the recipients are not clearly identified. Those lists include “mailalert@ubs.com” and “undisclosed recipients” (Ex. A, ERS-UBSPRIV-00056); “ERS\_AdHoc Distribution List” and “ERS\_GLC Distribution List” (Ex. C, BH-ERS-E-PRIV-000015); “PR@kingstreet.com” (Ex. D, BH-ERS-F-PRIV-000008); “ERS PR Group Distribution List” and “ERS GLC Advisors Distribution List” (Ex. F, BH-ERS-A-PRIV-000007, BH-ERS-A-PRIV-000028). Movants have not provided an appendix describing the titles or roles of the individuals listed in the logs, and the logs do not all contain a list of attorneys.

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Opposition to the Motion to Compel.

**The Government Parties' Privilege Log:**

4. During further review of the Government Parties' April 14, 2019 individual entry privilege log, we determined that certain entries required corrections. Attached as Exhibit I is an amended privilege log, redlined to show the corrections.

5. The Government Parties have so far produced more than 1,600 documents dated between June 1, 2016, and March 14, 2019, covering ERS's finances, pension reform, and PayGo. The productions include documents that fall within the February to October 2017 time frame encompassed by the Government Parties' privilege log. For example, the productions include a July 25, 2017 internal presentation titled "Transformación De Los Sistemas De Retiro" that discusses pension reform and PayGo (ERS\_LS0005105) and a June 1, 2017 spreadsheet with financial information related to employer contributions and pension reform (ERS\_LS0006242).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on April 22, 2019, in San Juan, Puerto Rico.

/s/ Madhu Pocha

Madhu Pocha